

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JAMES HEALY, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

MILLIMAN, INC., d/b/a INTELLISCRIPIT,

Defendant.

Case No. 2:20-cv-01473-JCC

**STIPULATED MOTION TO EXTEND
TRIAL DATE AND RELATED DEADLINES**

NOTED FOR CONSIDERATION:
DECEMBER 14, 2023

Plaintiff James Healy and Defendant Milliman, Inc. jointly move this Court for entry of an order extending the trial date and related deadlines. Following oral argument on Plaintiff's motion to modify the class definition and Defendant's motion for summary judgment and for decertification of the inaccuracy class, the Court ordered supplemental briefing. All pending motions are now noted for January 26, 2024.

Given the current pretrial schedule, the parties would have to submit the pretrial order (currently due January 19), jury instructions (currently due January 19), motions in limine (January 25) and other materials before having the benefit of the Court's decision on the pending motions. In addition, if one or both classes remain, the class administrator will need to send class notice, and class members will need the opportunity to opt out of the classes—the notices call for a 45-day opt-out period.

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1 Accordingly, the parties respectfully request to move the trial date and related
2 deadlines. In support of this request, the parties state as follows:

3 1. This is a certified class action. *See* Dkt. No. 126 (Order Granting in Part and
4 Denying in Part Plaintiff's Motion for Class Certification). The Court certified a Section 1681e(b)
5 Inaccuracy Class and a Section 1681i Failure to Properly Reinvestigate Class (collectively,
6 "Classes").

7 2. On May 12, 2023, the Court granted the parties' stipulated motion to extend the
8 case management deadlines and trial date to provide time for Milliman to produce "priority
9 code indicators" that the Court compelled it to produce. *See* Dkt. Nos. 161 & 162.

10 3. On July 21, the Court granted the parties' stipulated motion to extend the
11 deadlines for (1) the parties to complete discovery and expert work related to the priority code
12 data that the Court ordered Milliman to produce; (2) Plaintiff to move to modify the class
13 definition if necessary; and (3) the class action administrator to send notice.

14 4. On September 8, Plaintiff moved to modify the definition of the Inaccuracy Class,
15 with a noting date of September 29. *See* Dkt. No. 166. Milliman opposed the motion.

16 5. Milliman moved for partial summary judgment and decertification of the
17 Inaccuracy Class on September 21. *See* Dkt. No. 167. Plaintiff opposed the motion.

18 6. The Court extended the deadline to send class notice again on October 5. *See*
19 Dkt. No. 173.

20 7. Plaintiff moved for partial summary judgment on November 3. *See* Dkt. No. 185.
21 Milliman opposed the motion.

22 8. The Court heard oral argument on Plaintiff's motion to modify the definition of
23 the Inaccuracy Class (Dkt. No. 166) and Milliman's motion for partial summary judgment and
24 decertification of the Inaccuracy Class (Dkt. No. 167) on December 5. *See* Dkt. No. 197.

25 9. The Court has since ordered Plaintiff to provide supplemental briefing by January
26 5. Milliman's response is due January 19. Plaintiff's reply is due January 26. *See* Dkt. No. 197.

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10. The Court also directed the Clerk to re-note Plaintiff's motion to modify the Inaccuracy Class definition (Dkt. No. 166), Milliman's motion for partial summary judgment and decertification of the Inaccuracy Class (Dkt. No. 167), and Plaintiff's motion for partial summary judgment (Dkt. No. 185) for January 26. *See* Dkt. No. 197.

11. Under the current Scheduling Order, the parties will need to comply with all trial-related deadlines before, or just after, the January 26 noting date. The proposed pretrial order, proposed jury instructions, and proposed verdict form trial briefs are due on January 19. Motions in limine are due January 25. Trial briefs are due January 29. *See* Dkt. No. 161.

12. Moreover, notice to the certified classes has not gone out yet. Should one or both classes remain following the Court's rulings on the pending motions, the class action administrator will need 10 days to do the work needed to send notice. *See* Dkt. No. 173.

13. If notice goes out to one or both certified classes, class members will have 45 days to opt out. *See* Dkt. Nos. 141-1 to 141-5.

14. If one or both classes remain following the Court's rulings on motions noted for January 26, trial cannot go forward until the classes receive notice and class members have had the opportunity to opt out. As a result, the February 12 trial date is impractical.

15. Accordingly, the parties respectfully request that the Court enter the following case schedule:

Event	Current Deadline	Proposed Deadline
Deadline for the parties to propose changes to class notice		10 days from order on pending motions
Administrator sends notice after performing reverse lookups for email addresses and performing an NCOA update		10 days from order on proposal to change class notice
Deadline to opt out of class		45 days from class notice mailing

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1	Deadline to file list of opt outs with Court		14 days from opt out deadline
2			
3	Deadline to file proposed pretrial order, proposed jury instructions, and proposed verdict form	January 19, 2024	30 days from deadline to file list of opt outs
4			
5	Deadline to file motions in limine (to be filed in a single, joint brief)	January 25, 2024	7 days from deadline to file proposed pretrial order, proposed jury instructions, and proposed verdict form
6			
7	Deadline for trial briefs	January 29, 2024	5 days from deadline to file motions in limine
8			
9	Trial (ten days)	February 12, 2024 at (or at the court's convenience)	14 days from deadline to file trial briefs
10			
11			

12
13 RESPECTFULLY SUBMITTED AND DATED this 14th day of December, 2023.

14
15 TERRELL MARSHALL LAW GROUP PLLC

WILLIAMS, KASTNER & GIBBS PLLC

16 By: /s/ Adrienne D. McEntee, WSBA #34061

By: /s/ Jeffery M. Wells, WSBA #45840

17 Beth E. Terrell, WSBA #26759
18 Email: bterrell@terrellmarshall.com
19 Jennifer Rust Murray, WSBA #36983
20 Email: jmurray@terrellmarshall.com
21 Adrienne D. McEntee, WSBA # 34061
22 Email: amcentee@terrellmarshall.com
23 936 North 34th Street, Suite 300
24 Seattle, Washington 98103-8869
25 Telephone: (206) 816-6603
26 Facsimile: (206) 319-5450

Rodney L. Umberger, WSBA #24948
Email: rumberger@williamskastner.com
Daniel Brown, WSBA #22028
Email: dbrown@williamskastner.com
Jeffery M. Wells, WSBA #45840
Email: jwells@williamskastner.com
601 Union Street, Suite 4100
Seattle, Washington 98101-2380
Telephone: (206) 628-6600
Facsimile: (206) 628-6611

Attorneys for Defendant

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1 James A. Francis, *Admitted Pro Hac Vice*
2 Email: jfrancis@consumerlawfirm.com
3 John Soumilas, *Admitted Pro Hac Vice*
4 Email: jsoumilas@consumerlawfirm.com
5 Lauren KW Brennan, *Admitted Pro Hac Vice*
6 Email: lbrennan@consumerlawfirm.com
7 FRANCIS MAILMAN SOUMILAS, P.C.
8 1600 Market Street, Suite 2510
9 Philadelphia, Pennsylvania 19103
10 Telephone: (215) 735-8600
11 Facsimile: (215) 940-8000
12
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Attorneys for Plaintiff

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[PROPOSED] ORDER

IT IS SO ORDERED.

DATED this 14th day of December 2023.



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